

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION FREE CONFERENCE COMMITTEE ON HOUSE BILL 124

Call to Order: By **CHAIRMAN ROYAL JOHNSON**, on April 17, 2001 at 1:00 P.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Sen. Royal Johnson, Chairman (R)
Rep. Bob Story, Chairman (R)
Rep. John Esp (R)
Sen. Bob Keenan (R)
Rep. Jeff Mangan (D)
Sen. Emily Stonington (D)

Members Excused: None.

Members Absent: None.

Staff Present: Linda Keim, Legislative Secretary
Lee Heiman, Legislative Attorney

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted:
Executive Action: HB 124

CHAIRMAN JOHNSON said this is a continuation of the Free Conference Committee on HB 124 which met for the first time this morning. He verified that this bill is due to take effect July 1 and asked if there is any problem with that schedule. **Judy Paynter, Department of Revenue** said that is not in the proposed amendments. It can be made effective July 1, 2001 and they would have until September 15 to send out the first payments. **CHAIRMAN JOHNSON** asked if they wanted to take the rules authority out. **Judy Paynter** said the proposed amendments take that out. The authority needs to be very general because we are dealing with a lot of numbers and we need flexibility if there is a problem. In case it is disputed, there is a dispute resolution process in the

bill. It doesn't lend itself well to rules since there isn't much policy to decide.

CHAIRMAN JOHNSON said they had a lengthy discussion this morning on whether to have a special account for it. That is still a possibility, but there seems to be a number of reasons not to. He asked **SEN. STONINGTON** whether she was going to offer that.

SEN. STONINGTON said she had discussed with the Department of Revenue what it would entail to do a reserve fund, so if there is a surplus in 02 this would not show up as part of the ending fund balance subject to appropriation elsewhere by the Finance Committee. She asked **Judy Paynter** whether she had explored that concept to see whether it was workable. **Judy Paynter** said that she had left messages but had not been able to reach anyone.

SEN. STONINGTON said in that case she would prefer to not consider this concept today. **CHAIRMAN JOHNSON** said he would delay that consideration until another time.

REP. MANGAN moved that the growth rate and subsequent amendments be set at 3% across the board. **Judy Paynter** said their amendments are for 54% and are related to 2.3%. **CHAIRMAN JOHNSON** asked, if the committee agreed with this motion, would you take that out of your amendments. **Lee Heiman, Legislative Attorney** answered yes. **CHAIRMAN JOHNSON** asked for discussion on whether to keep this at 3% or something else.

REP. STORY said that at the reduced rate in the out years, the cities won't be supporting the proposal. He said if they are going to give up revenue on this, they should at least get back as much as they are putting in. They can't do that with a 54% factor in the bill. If they run this bill through the process again and it doesn't meet the approval of either the House or the Senate, we will have to work on it some more. He asked if the budget office had any comment.

Amy Carlson, Budget Office said she asked **Director Swysgood** to be here, but he was unable to do so. She said she has no reason to believe that he would move off the 2.3%

REP. ESP asked **CHAIRMAN JOHNSON** how he felt the Senate would react to that. **CHAIRMAN JOHNSON** said he couldn't speak for them. He said this committee needs to settle it the way the committee thinks it should be, and suggest it to them. If that doesn't work, the committee will work on it some more.

REP. MANGAN moved a conceptual amendment that the growth rate and subsequent amendments be set at 3% across the board. **Motion carried 5-1** with **SEN. KEENAN** voting no.

CHAIRMAN JOHNSON asked **Lee Heiman** to explain the amendments, **EXHIBIT (frh86hb0124b01)**. **Lee Heiman, Legislative Attorney** said these have been suggested by the Department of Revenue. The amendments take the salmon bill and make it into the brown bill again, the second part makes those changes to the brown bill that the department recommended. Most are just mechanical amendments that implement getting HB 20 and SB 417 reimbursements out, changing the numbers and working with district court funding which has been moved back a year. The bill is back where it was when it came out of the Senate committee, and he said the amendments he made are from that point on. **CHAIRMAN JOHNSON** asked if it would be possible to pass the amendments by voting on them in sections. **SEN. STONINGTON** said she would like to know more about what these amendments do. **Lee Heiman** clarified that these amendments are differences from the tan bill. In order to proceed, we have to go back to the tan bill. If the committee would move that, we can move the amendments and be at the point where it came out of Senate Tax.

SEN. STONINGTON moved amending the salmon colored bill to the tan colored bill so the substance of the bill was as it came out of Senate Taxation Committee with the addition of the conceptual amendment we have already passed with the 3% growth rate in the out years. **Motion carried unanimously.**

CHAIRMAN JOHNSON stated we are working off the tan bill now.

SEN. STONINGTON explained that the tan bill as it is now has a 3% growth rate between the first year of implementation and 2005. It is not actually 3%, it is 70% of the CPI, and will be ongoing into the future.

SEN. STONINGTON asked **Lee Heiman** if it is most appropriate to adopt these technical amendments as a package or are there segments that should be looked at separately. **Lee Heiman** said there are segments to look at separately, particularly the school provisions, Section E on page 3. This is about the .76% change in the growth rate for the schools and has tables reflecting the change based on HB 20 and 417 reductions.

SEN. STONINGTON explained that in the tan bill as written, with amendments put on by the Senate Taxation Committee, the schools through a reimbursement for the amount they lost in the tax bills and a block grant after the first two years, were allowed a 1½% growth rate in those amounts going back to schools. Beginning in the biennium following fiscal year 2005, they would go to the same growth rate that local governments would be on. It would be up to a 2.3% growth rate as written in the bill, but we just adopted an amendment that made that go to 3%. The issue at hand is that the budget office is recommending having a growth rate

for the schools of half of that, .76% is based on the idea that it will hold them at current law level. It does not give them a revenue sharing growth rate, but holds them level. **CHAIRMAN JOHNSON** said it is shown under block grants and amounts to about \$4.4 million in the last year, and a total of \$24 million.

REP. STORY said all these amendments will work well, they are the same as current law. The reimbursement money from SB 184 is held constant to the schools and its growth rate is actually what they would have picked up in vehicle money. The other sources of revenue such as gambling don't go into the school coffers. Any dollars they get in this area are not new dollars to spend, they are just property tax relief to local taxpayers.

REP. MANGAN said he had a conceptual amendment to propose after this is voted on as a whole.

Lee Heiman referred to Section H, which amends 15-10-420. This is the floating mill levy, and the number of mills that can be levied. There is coordinating language that needs to be removed.

SEN. STONINGTON asked about the two lines that had become an issue on the Senate Floor. They were district court costs and the counties not having to pick up those costs if the state overran its budget. Those provisions are in SB 176. Where is that in the process now? **Lee Heiman** said the amendments are waiting for it to go to a conference committee. **SEN. STONINGTON** said that language is in this bill. For the comfort of the senators who are going to vote on this bill, wouldn't it be a good idea to amend out lines 25-26, page 16.

SEN. STONINGTON moved to strike lines 25-26, page 16. Motion carried unanimously, 6-0.

REP. STORY asked for clarification of what section of 15-10-420 we are working with in the bill. **Lee Heiman** said it is on page 80 of the bill and the other version of HB 420 is on page 243 of the tan bill. A lot of those are identical, he is moving the part on page 244, lines 19-27 which is from SB 501. **REP. STORY** asked what they would end up with would it be the section out of SB 501 amended into this bill. **Lee Heiman** said yes, SB 501 controls. We are taking page 244, adding it on line 19 where it says: "except as provided in subsection 3b" and moving that into the main section. On lines 23-27, we are moving 3b into the section in the bill that will be law. **Judy Paynter** said HB 124 has better Tax Increment Finance Districts (TIFD) language and they want to move lines 25-27 which captures the land cap that was in SB 501. It does not affect line 19, subsection 3b. **REP. STORY** asked that 15-10-420 be constructed as they passed it, so

they knew what it did. **SEN. STONINGTON** agreed, they want to make sure they are in agreement with what it says now. **CHAIRMAN JOHNSON** asked if the budget office was okay with this. **Amy Carlson, Budget Office** said yes, as far as she understood it. **REP. STORY** said 15-10-420 is the section of law that local governments have to use every year to determine how many mills they are going to levy. It is their floating mill section and it describes what you can apply the mills to and what is newly taxable and what is not. It doesn't have any effect on state government. **SEN. STONINGTON** said if we approve these amendments, we are approving them pending a view of the language as written. **Lee Heiman** said he would pull together a full version of that section. **CHAIRMAN JOHNSON** asked if they wanted to meet again to go over that. **REP. STORY** said the bulk of it went through in SB 501, they don't need to meet on it. **SEN. STONINGTON** said she was okay with that.

SEN. STONINGTON MOVED to accept the package of **technical amendments as presented by the Department of Revenue. Motion passed unanimously, 6-0.**

Lee Heiman presented Amendment HB012463, **EXHIBIT(frh86hb0124b02)** and said the proposal deletes any changes to the reimbursements now under 15-1-111 and 15-1-112 and makes changes to section one of the bill which were requested by the Department of Revenue. It also removes the amendments to the current HB 20 and SB 417 reimbursements so they will continue to phase out as they are doing in current law. **Judy Paynter** referred to page six, number (12) which says if there is some dispute and they can't resolve it, and said this is the dispute resolution procedure. Then on page three, number (4): all the special district entitlement shares in the county are consolidated local government. **Gordon Morris, Montana Association of Counties**, said he brought an amendment to make sure the special districts got their entitlement share pooled back and that they strengthened that language here. **CHAIRMAN JOHNSON** asked for clarification on the language "reasonably reflects". Is there a better way, can we only get "close". **Judy Paynter** said sometimes there are decisions that local government needs to make and one of the aspects considered was trying not to tie local governments hands really tight, but to let them work things out. This is reasonably close and reasonably reflects, without requiring them to forever do precise math. The bill is about working together and trusting, and it was strengthened to get a clear intent and hope they could work with each other. **CHAIRMAN JOHNSON** asked about the section on page six that said the local government may appeal the department's estimation of the base year component. If state government is not satisfied, do they have to appeal back

to the county, or how is that done. **Judy Paynter** said that would be between the local folks, the Department of Revenue shouldn't have to be involved. She said she doesn't think page three involves the Department. **SEN. STONINGTON** clarified page three (4) and said that once the local governments have their entitlement share, how they go about giving that out to the different districts needs to be reasonably accurate, so they don't have to go in every year and calculate what they got last year to the penny. They allocate it according to their judgement and work with those local districts on what their share is. They already have those working relationships, so that is really a local government issue.

REP. STORY asked if the reduction in reimbursement money is lined up in the amendment to reflect the one year delay of the district courts coming on, so that we don't withhold their money for the year that they are trying to still run their courts. **Judy Paynter** said yes, all the amendment language is done.

SEN. KEENAN asked where the language is about the one year delay on the district courts. Is that in 176 or both bills? **REP. STORY** said the amendments that were adopted previously talked about delay in implementation, but he doesn't know which bill it is in. **Lee Heiman** said it does the funding provision part. He understood that this bill would not do that for 176. This would change the funding by one year. **REP. STORY** said the concern is whether that had been done in 176. **Judy Paynter** said it had not. She said she was working with **Valencia Lane** on getting the amendments for 176 prepared. They can do it in 176 which is the cleanest way, or it can be done like they did with SB 184. She asked if it was legal to do that in this bill. **Lee Heiman** said yes it would be. **Judy Paynter** said it could be done in this bill and then 176 would not need to go to conference committee. It is this committee's choice. **REP. STORY** said it would be okay to do it in this bill, but he was under the impression that Chief Legal Council didn't agree. **Judy Paynter** said that is right, she previously told **REP. STORY** that Chief Legal Council prefers it to be done in 176. That is why they are working on amendments to 176 to do it there. **CHAIRMAN JOHNSON** said this conference committee is not considering 176, so someone else will have to take care of it, unless we want to do it in this bill. **Judy Paynter** said that is correct.

REP. MANGAN referred to page two, section 2(a) of the amendment and asked if that should read year 2002, rather than 2001. **Brad Simshaw, Department of Revenue** said they had been working through the language on that and the language does get convoluted. **Judy Paynter** referred to page two, number (3). She said they did it

for the one year, but beginning with fiscal year 2002 the growth rate comes in. **SEN. STONINGTON** referred to page two, the last line of section 2(a), where it says that those deductions occur in fiscal year 2002. They are based on 2001 figures, but they occur in 2002.

Gordon Morris, Director of the Association of Counties referred to the amendment. He said he is concerned about page two, line 2(a). He suggested saying county government expenditures "less reimbursements" for district courts. If you include the amount they are being reimbursed as part of their expenditures, you are getting the reimbursement money, plus what they were reimbursed for out of the reimbursement money and that would be a double hit on counties, with double accounting for the state. **Brad Simshaw** said he understands the concern in calculating the base component for each county government. That is how it works conceptually, and if the language isn't that way they will change it. **Judy Paynter** said they worked through this language with spread sheets and they think it works. She referred to page five (v). It is complicated to take it out for one year, then add back what they will be paid for fiscal year 2002 in district court costs. It is shown as a different category, but the numbers come out the same as those shown on the sheet.

SEN. STONINGTON clarified this by saying for fiscal 2002 the counties continue to pay district costs. Their entitlement share for that year is ongoing plus the amount that they need to expend for district courts. In the following year, they are not reimbursed that amount for district courts as part of their entitlement share. **Judy Paynter** said that is correct. We make the calculation and we deduct it as if the system was all going to start on July 1, 2001. Then we add back to their entitlement share the full cost of running the district courts for fiscal year 2002, so they have the money that comes back. **SEN.**

STONINGTON followed up on **Gordon Morris'** concern. She said, for example, the district court budget for the last three years in a county had been \$1 million. In fiscal 2001 they have an exceptional court case, it cost them \$200,000 extra, and they got reimbursed from the state for that amount. How is that handled in the language as you constructed it? **Judy Paynter** said they will consider it a fiscal 2001 district court cost and it will be deducted as if it were coming out of their entitlement share. In 2002, that exact amount will be added back to their entitlement share and they will be paid for that. **SEN. STONINGTON** asked to clarify this. She said this was not county revenue, this was state revenue that was reimbursed for an exceptional court cost. This was not part of their county expenditures that they had formerly experienced as court expenditures, and it was an exceptional amount of money. Are you saying that becomes part of

their entitlement share? **Judy Paynter** said yes, that becomes part of their entitlement share. For example, you have a reimbursement pool that might go different places in different years right now, but it is part of their entitlement share because we are going to take the district court costs in fiscal year 2001. When you move it to a state system, when one county has an extraordinary expense one year and another county has it the next year, the district court system under the supreme court will be able to move that money around. But for setting the base year, if there is exceptional cost in fiscal year 2001 for some county, that cost is forever built in. **SEN. STONINGTON** said are you saying that in 2003 that extra \$200,000 comes out of the county entitlement share. **Judy Paynter** said no.

CHAIRMAN JOHNSON said they would have to end their discussion because another committee had the committee room in a few minutes. He asked **REP. MANGAN** if he had a conceptual amendment to consider. **REP. MANGAN** said his conceptual amendment is fairly major and would have some discussion with it. He suggested they wait with it. **CHAIRMAN JOHNSON** said the committee would recess and meet again at 5PM in Room 172. He asked **REP. MANGAN** to have his amendment ready at that time.

ADJOURNMENT

Adjournment: 2:00 P.M.

SEN. ROYAL JOHNSON, Chairman

LINDA KEIM, Secretary

BS/RJ/